



MTM 27079A
SDR-922-90-06
3165 (922.LE)

June 22, 1990

CERTIFIED--RETURN RECEIPT REQUESTED

DECISION

Mr. Timothy J. Sheehan)
Northland Royalty Operating Company) SDR No.922-90-06
3030 Fourth Avenue North)
Billings, Montana 59101)

AFFIRMED

Northland Royalty Operating Company (Northland) requested a State Director Review (SDR) of a \$5,000 assessment issued to Northland by the Great Falls Resource Area Office (GFRA) (see Enclosure 1). The assessment was issued to Northland under the authority of 43 CFR 3163.1(b)(2), due to failure on Northland's part to comply with 43 CFR 3162.3-1c. Northland was notified of the violation and assessment by letter dated May 15, 1990 (see Enclosure 2).

The letter notified Northland that a gas well had been drilled and completed in Lot 4 (NW1/4NW1/4), section 4, T.33 N., R. 2 W., Toole County, Montana, federal lease No. MTM 27079A, without a federally approved application for permit to drill (APD). The letter also notified Northland of an assessment of \$500 per day times 10 days (the assessment is capped at \$5,000), totaling \$5,000.

Northland requested an oral presentation to present their case as per 3165.3(b). Northland's oral presentation was given at the Montana State Office (MSO) on June 19, 1990.

Enclosed is a copy of Northland's statement which they read into the record (see Enclosure 3). Northland stated that they did not intend to cause the commencement of operations and the drilling of a well on federal lands without the approval of appropriate permits. The action of their company was an error and, in particular, the error involved failing to cross-check a drill site designated by their geology department against federal master title plats to determine federal mineral ownership.

Northland argued that their company has never been cited for any other serious infractions of the CFRs. Northland requested that the State Director exercise his power under 43 CFR 3163.1-e and waive the assessment. We reviewed Northland's compliance record which covered the past 2 years (see Enclosure 4). The record indicated that Northland operates 11 communitization agreements (CAs) and one lease in the GFRA. Over the past 2 years Northland has been issued 5 major violations (not including the violation under appeal) and 16 minor violations by the GFRA office.

Northland originally received state approval to drill the Lundin 4-4 well in the SW1/4NW1/4 of section 4 on May 4, 1988, which expired on November 5, 1988 (see Enclosure 5). On June 20, 1988, the State granted approval to change the well number from the 4-4 to the 5-4 (see Enclosure 6). The well was repermited by Sundry Notice (SN) on March 5 1990, in the same location (see Enclosure 7). The SN indicates that the well was to be drilled 660 FWL and 660 FWL but was changed by either the State or the operator to 1980 FWL and 1320 FWL. The 660 FWL and 660 FWL will place the well on federal minerals, and the 1980 FWL and the 1320 FWL places the well on patented minerals. On April 3, 1990, the State approved a SN to move the well location to Lot 4 (NW1/4NW1/4) of Section 4 and to change the well number from the 5-4 back to the 4-4 (see Enclosure 8). The State completion report indicates that the well was drilled 665 FWL and 675 FWL (see Enclosure 9).

Drilling operations of the Lundin 4-4 well commenced on April 7, 1990, and the well was completed on April 12, 1990, and the infraction was discovered by the GFRA on May 11, 1990.

The regulation cited by the GFRA office for the violation was 43 CFR 3162.3-1(c) which states, "The operator shall submit to the authorized officer (AO) for approval an APD for each well. No drilling operations, nor surface disturbance preliminary thereto, may be commenced prior to the AO's approval of the permit.

Also the basis for the assessment comes from 43 CFR 3163.1(b)(2) which states, "...for drilling without approval or for causing surface disturbance on federal or Indian surface preliminary to drilling without approval, \$500 per day for each day that the violation existed, including days the violation existed prior to discovery, not to exceed \$5,000."

Based on the regulations, we find that the GFRA office was correct in assessing the \$5,000 assessment to Northland for drilling without a federally approved APD. After reviewing Northland's compliance record we do not feel that the assessment should be reduced or waived. Therefore, the GFRA office's decision and assessment is affirmed.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and the enclosed Form 1842-1 (Enclosure 10). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.

Sincerely,

Donald L. Gilchrist
Acting Deputy State Director
Division of Mineral Resources

10 Enclosures

- 1-GFRA Decision dated May 15, 1990 (2 pp)
- 2-SDR dated May 28, 1990 (10 pp)
- 3-Northland's oral presentation statement (3 pp)
- 4-Northland's compliance record (2 pp)
- 5-Northland's original State permit for the Lundin 4-4 (2 pp)
- 6-State Sundry Notice changing well numbers (1 p)
- 7-State Sundry Notice repermitting the drilling of the well (1 p)
- 8-State Sundry Notice changing location and well number (2 pp)
- 9-State Completion Report (1 p)
- 10-Form 1842-1 (1 p)

cc: (w/o encls.)

DM, Lewistown

AM, GFRA

bc: (w/o encls.)

WO(610), PRE Bldg., Rm. 601

DM, Dickinson

DM, Miles City

MSO (922)

AK SO

AR SO

CA SO

CO SO

ESO

ID SO

NV SO

NM SO

OR SO

UT SO

WY SO

922:LBagley:jk:6/21/90:x845:6576d